IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 11988 of 2007(B)

PETITIONER:

ABDUL RUSSAK,CEMA SHOPPE,CHITTOOR ROAD,
ERNAKULAM.

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

RESPONDENTS:

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1. THE KARUMALOOR GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY,
PANCHAYAT OFFICE,KARUMALOOR.

2. THE SECRETARY, KARUMALOOR PANCHAYAT,
PANCHAYAT OFFICE,KARUMALOOR.

3. THE MANAGER, CO-OPERATIVE DEPT.STORE,
RAILWAY STATION ROAD,ALUVA-683 101.

BY ADV. SRI.MATHEWS K.PHILIP
SRI.B.HARISH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C)No. 11988 OF 2007

DATED THIS THE 14th December 2007

J U D G M E N T

The grievance of the petitioner, who had supplied electrical goods to the third respondent Co-Operative Department Store, is that the payment for the goods supplied to the third respondent for the purpose of respondents 1 and 2 has not been received. The third respondent has filed a counter affidavit wherein Ext.R3(a) series which will show that the goods were supplied by the petitioner to the third respondent for the purpose of the first respondent Panchayath is produced.

2. Heard Sri. Sadchit P.Kurup, learned counsel for the petitioner, Sri.Mathews K.Philip learned counsel for respondents 1 and 2 and Sri. B.Harishkumar, learned counsel for the 3rd respondent. The attention was drawn to me by Sri. Mathews K.Philip that Ext.P5 reply which was given by the Panchayath. Sri.Mathew submitted that there is no privity of contract between the petitioner and the Panchayath and that privity if at all is

between the Panchayath and the third respondent and hence the petitioner is not entitled for any relief against the Panchayath. Mr. Sadchit P.Kurup submits that since it is not disputed that the goods were supplied by the petitioner to the third respondent for the purpose of the Panchayath and since the Panchayath has utilized the goods, the Panchayath is not entitled to deny the payment.

3. The petitioner does not insist on payment directly from the Panchyath. The Panchayath shall make payment to the third respondent and the third respondent is thus enabled to make payment to the petitioner. In Ext.P4 the stand taken by the Panchayath is that since the purchase price exceeds Rs.20,000/-, the purchases could have been made only by notifying in the newspaper. Since the notification procedure had not been followed and since there was violation of the Rules, the Panchayath has sought concurrence from the Government. The petitioner, in my opinion, cannot be blamed in the matter. If there has been violation of Rules in the matter of purchasing goods for more than Rs.20,000/- other than by inviting the

quotations through the notification in newspaper, it is the functionaries of the Panchayath who are to blame.

Under these circumstances, I dispose of the writ petition directing the first and second respondent to ensure that payment is released to the third respondent within four months of receiving copy of this judgment. The needful for getting concurrence of the Government will be done by the Panchayath. If the concurrence of the Government is not received within six months, the Panchayath shall release the payment to the third respondent out of its own funds.

Sd/-
(PIUS C.KURIAKOSE, JUDGE)

ks.

TRUE COPY

P.S.TO JUDGE